Filed 8/28/15 In re S.C. CA1/3

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

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| In re S.C., et al., Persons Coming Under the Juvenile Court Law. | |
| SAN FRANCISCO HUMAN SERVICES AGENCY,<br>Plaintiff and Respondent,<br>v.<br>N.R.,<br>Defendant and Appellant. | A142661<br>(City & County of San Francisco Super. Ct. Nos. JD143017, JD143017A) |

N.R. (Father) appeals from jurisdictional and dispositional orders in a dependency case involving his adopted daughter S.C., born in April 2005, and his biological daughter L.C., born in July 2008. Father was found to have sexually molested S.C. in L.C.'s presence, and was denied reunification services and visitation with S.C. and L.C. He argues that the court erred when it took jurisdiction based on the girls' hearsay statements about the sexual abuse, removed the girls from his custody, denied him reunification services, and denied him visitation with L.C. We affirm the orders.

## I. JURISDICTION

A. Record

A petition was filed on January 16, 2014, under Welfare and Institutions Code[1] section 300 alleging jurisdiction over the girls under subdivision (b) (failure to protect) and subdivision (d) (sexual abuse). With respect to failure to protect, the petition as amended alleged: "The mother [C.B.C., hereafter Mother] requires the assistance and supervision of the agency in providing and following through with mental health services and childcare for both children. In addition, the Agency [the San Francisco County Human Services Agency, hereafter the Agency] needs to monitor and confirm proper maintenance and care of the girls based on mother's history, which includes failure to provide proper supervision and hygiene for the children." The allegations of sexual abuse under subdivision (d) were that Father sexually abused S.C. in the presence of L.C. on December 26, 2013, by putting his penis on or in S.C.'s bottom.

According to the Agency's detention report, Mother brought S.C. to a hospital on December 26, 2013, because S.C. was complaining of rectal pain after a visit with Father. S.C. reported that Father had put his private part in her bottom that morning. S.C. and L.C. were interviewed by Gloria Samayoa at the Child Adolescent Support Advocacy Resource Center (CASARC) the next day, and videotapes of the interviews were introduced into evidence.

In her interview, eight-year-old S.C. said she went to the doctor the day before because she told Mother what happened at Father's house. S.C. said father grabbed her by the hand and pushed her on to his bed. She rolled over onto her tummy. He took off her panties, put "saliva" or "spit" on his private part, and got on top of her. Her dress with green flowers and black stripes was pulled up, and his pants were down. She knew his pants were down because she felt his belt on her knees. He put his private part in her butt, and went up and down, pushing on her back. She saw the clock in the room and this happened at 11:00 a.m. Father told her not to tell anyone about it. This sort of thing had

[1] All further statutory references are to this code.

happened before, when she was three, four, or six years old and they were living in Mexico, and at other times where Father was living now. She did not want to see Father again because she did not like to do it.

S.C. said L.C. was in the room during the previous day's incident, but L.C. did not see or hear what happened because she was looking away and playing a loud video game on Father's phone. However, early in five year old L.C.'s interview, when Father was first mentioned and L.C. was asked, "So tell me about [him]," she volunteered, he "squishes my sister." She said, "yesterday when we was with him, they were on the uhm, bed and then he was doing this with his body." L.C.'s gesture is partially obscured in the video of the interview, but when Samayoa repeated the gesture, she moved her hand up and down. L.C. said S.C. walked to the bed and rolled on her stomach. She was wearing a dress with flowers. Father was on top of S.C. in the bed and put his legs on her. L.C. played "Monsters" on the phone when Father was squishing S.C. She remembered what happened yesterday "[b]ecause I saw it."

Father subpoenaed S.C. and L.C. for the jurisdictional hearing, and their counsel moved to quash on the ground that testifying would be psychologically damaging for both girls. The court granted the motion and found that the girls were unavailable as witnesses. Father made hearsay objections to admission of statements by the girls in the CASARC interviews and Agency reports concerning the December 26 incident. Father argued that the girls' reports of S.C.'s sexual abuse should be excluded because they were the product of Mother's undue influence.

Father supported this argument with, among other things, documents from the girls' prior dependency case. The disposition report in the prior proceeding provided the following background concerning the family: "The mother met the father when she was 17 years old after she had given birth to [S.C.]. The mother began a relationship with [Father] and he legally registered [S.C.] as his daughter. The parents had a daughter in common [L.C.] 3 years later. The father married the mother in 2006. [¶] In about 2008 when [L.C] was 4 months old, the family moved to Puebla, Mexico. . . . The mother only lived in Mexico for 2 years and decided to return to San Francisco but visited the family

in Mexico every 3 months for a week. In May of 2012, the father agreed for the girls to return to San Francisco with the mother because the plan was for all of them to return to the States and live together as a family. The father . . . arrived to San Francisco 1 month after the girls arrived to find that the mother was in a new relationship. This led to their separation and problems around the girls' custody."

In June 2012, Mother contacted the Agency and reported that S.C. was engaging in sexualized behavior. At CASARC on June 27, S.C. denied any sexual behavior, and the girls denied any "inappropriate acts by their father on them." Shortly before the CASARC interviews, an Agency worker witnessed Mother "coaching [L.C.] to lie about father having left her alone to go out with [S.C.]." The prior dependency case was instituted in July, after the girls were removed from Mother's custody and placed with Father because Mother was failing to properly care for them.

On July 17, Mother told San Francisco police that S.C. said Father put his penis in her mouth. The Agency determined that the allegation was unfounded. On July 24, Mother obtained a temporary restraining order against Father based on the allegation. The temporary restraining order was vacated on July 26. On August 6, Mother reported that Father had sent her an email acknowledging his sexual abuse of one of the girls. Police found no evidence that the email was sent from Father's computer or phone.

In February 2013, Mother told the Agency S.C. said that Father put his penis on her behind. The girls were again interviewed at CASARC, and again disclosed no abuse. The girls continued to live with Father during the dependency proceeding, and the case was dismissed in April 2013.

Father called Melissa Larrea, S.C.'s therapist from February 2013 to April 2014, and L.C.'s therapist from March 2013 to April 2014, as a witness at the jurisdictional hearing. Larrea testified that Mother called her twice, saying that the girls were ready to disclose something about Father. "One time nothing happened and one time [L.C.] said that dad kissed [S.C.]," but "[L.C.] said that her mom told her to say that." In July 2013, S.C. told Larrea that Father "kissed me like grownups kiss," and "insinuated . . . with an open mouth," a disclosure Larrea reported to "CPS." However, Larrea had "lots of time

in the waiting room before and after sessions" to observe Father's interaction with the girls, they seemed safe and comfortable with him, and S.C. "was happy to go with dad, be with dad, hang out with dad after I made the CPS report."

Larrea testified that S.C. "kind of shut down" during sessions after the girls began living primarily with Mother in August or September of 2013. S.C. was "not comfortable talking about mom in any lengths that was not fully positive." S.C. "seemed to put her mother's feelings and perceived needs ahead of her own," which "caused [S.C.] a lot of stress and anxiety . . . ." After the December 26 incident S.C. expressed fear of Father, and no longer wanted to see him. That was the first time Larrea saw signs that Father had abused the girls.

Agency witnesses opined at the jurisdictional hearing that the girls' disclosures at the December 27 CASARC interviews were not coached.

Emergency response worker Alicia Rodriguez met the girls at CASARC that day, witnessed the interviews, and authored the Agency's detention report. Rodriguez was aware of the concern that the girls might have been coached. She ruled out that concern because it "appeared impossible" to coach them to "independently . . . give such clear detail about what had happened." Samayoa asked questions that were appropriately open-ended rather than leading. L.C. spontaneously corroborated S.C.'s account. The girls used different, age-appropriate language to describe what happened. Mother could not have coached their descriptions of the dress S.C. was wearing during the incident because Mother thought she had worn something different. S.C. apparently put on a dress she kept at Father's home while she was there.

Rodriguez had worked for the Agency for 14 years and interviewed more than 100 children in sex abuse cases. She had not been trained specifically about coaching, but had been trained more generally about how to determine the veracity of sex abuse allegations.

Interviewer Samayoa said her training "cover[ed] coaching and suggestibility," and that her questions were framed "to rule out whether a child has heard information

versus witnessed information." Samayoa thought that, for their ages, the girls provided a lot of information and detail about the molestation.

Larisa Rostran-Navarro was the Agency's court dependency worker in this case and the prior one involving the girls. Her work on 1,300 cases in 13 years with the Agency included assessing children's credibility. She watched tapes of the CASARC interviews, and found the girls' disclosures credible and not coached.

In Rostran-Navarro's experience, victims provide "distinctive details" of their sexual abuse. S.C. provided such details when she described the sequence of events, including Father's belt touching her knees. Rostran-Navarro said L.C.'s corroboration "stood out for me." L.C. was credible because she was "so spontaneous," and "very natural" for a child her age during the interview. Her disclosures were not prompted by S.C. because S.C. did not think she saw what happened. As for S.C.'s failure to previously disclose her earlier molestations, Rostran-Navarro said, "children disclose when they're ready to disclose, not necessarily when we take them to CASARC . . . ."

When admissibility of the girls' statements was argued, the court said the issue was "particularly difficult [because] you . . . have a mom who, in the past, has made allegations that are not substantiated, not corroborated. She does not want the girls to be with dad. That's clear." The court nonetheless found the girls' reports to be credible, and overruled Father's hearsay objection. The court determined that the videotapes of the CASARC interviews were admissible under the "child hearsay exception" in sex abuse cases (*In re. Cindy L.* (1997) 17 Cal.4th 15, 29 (*Cindy L.*)), and that statements by the girls in the Agency reports were admissible under section 355, subdivision (c)(1)(B). The court explained its ruling as follows:

"There are problems with the mother, but the court is really influenced by the statements of both daughters during the CASARC interview. The statements for the most part seem very consistent. There was an action by [L.C.] talking about squishing, and she raised her hands up and down. I think this case candidly would be much closer, if it weren't for [L.C.'s] CASARC interview, for the court because of the other factors, but [L.C.] this court found to be very credible and reliable as a corroborating witness to what

[S.C.] said during her interview, and it was the manner in which [L.C.] demonstrated. It was her consistency. She clearly has feelings for Father. She did not, in the interview, appear to bear any animus against father at all such that she would be influenced to corroborate [S.C.'s] statements. Similarly, [S.C.] clearly is conflicted, but she made statements during her interview that the court finds reliable because . . . of her age, because of what she said, the detail she gave."

B. Discussion

Father argues that the court erroneously denied his hearsay objection to introduction of the girls' descriptions of the December 26 incident. The decision to admit this evidence is reviewed for abuse of discretion. (*Cindy L.*, *supra*, 17 Cal.4th at p. 35.) Findings made in support of the ruling are reviewed for substantial evidence. (*In re Lucero L.* (2000) 22 Cal.4th 1227, 1249–1250 (*Lucero L.*).)

Section 355, subdivision (c)(1)provides: "If a party to the jurisdictional hearing raises a timely objection to the admission of specific hearsay evidence contained in a social study, the specific hearsay evidence shall not be sufficient by itself to support a jurisdictional finding or any ultimate fact upon which a jurisdictional finding is based, unless the petitioner establishes one or more of the following exceptions: . . . (B) The hearsay declarant is a minor under 12 years of age who is the subject of the jurisdictional hearing. However, the hearsay statement of a minor under 12 years of age shall not be admissible if the objecting party establishes that the statement is unreliable because it was the product of fraud, deceit, or undue influence."

The three conditions for application of the "child hearsay exception" are: "(1) the court must find that the time, content and circumstances of the statement provides sufficient indicia of reliability; (2) a child must either be available for cross-examination or there must be evidence of child sexual abuse that corroborates the statement made by the child; and (3) other interested parties must have adequate notice of the public agency's intention to introduce the hearsay statement so as to contest it." (*Cindy L.*, *supra*, 17 Cal.4th at p. 29.) There is no dispute as to the third condition. Father acknowledges that he had the opportunity to timely object to admission of the statements.

There can be no dispute as to the second condition because the girls corroborated each other.

However, Father argues that the first condition was not satisfied because Mother's undue influence over the girls rendered their statements unreliable, and thus inadmissible under the child hearsay exception or section 355, subdivision (c)(1)(B). "The nonexhaustive list of factors . . . relevant to the reliability of hearsay statements made by child witnesses in sexual abuse cases are (1) spontaneity and consistent repetition; (2) the mental state of the declarant; (3) use of terminology unexpected of a child of similar age; and (4) lack of motive to fabricate." (*Cindy L.*, *supra*, 17 Cal.4th at pp. 29–30.) Father's argument is mainly a recitation of Mother's conduct before the statements were made that could have supported a finding of undue influence. However, " '[a]n appellate court does not reweigh the evidence.' " (*City of Glendale v. Marcus Cable Associates, LLC* (2014) 231 Cal.App.4th 1359, 1385.) The court's remarks show that it took the evidence Father cites into account when it made its ruling. Father did not as a matter of law establish that the statements were a product of undue influence, nor is there any evidence in the record they were procured through fraud or deceit.

Rodriguez's, Samayoa's, and Rostran-Navarro's opinions provided substantial evidence to support the court's finding that the statements were reliable. The girl's accounts were consistent, and their mental states as reflected by their demeanor were appropriate for their ages (L.C. was "very curious" about her surroundings during the interview) and circumstances (at times during the interview S.C. appeared "sad or ashamed"). L.C. spontaneously corroborated S.C. and had no motive to fabricate accusations against Father. Rostran-Navarro testified that L.C. still wanted to see Father and felt safe with him. Admission of the statements was not an abuse of discretion. The ruling was reasonable for all the reasons given by the Agency witnesses and the court.

Father argues that the statements should have been excluded because the girls were not proven to be "truth competent." A witness is incompetent to testify if he or she cannot distinguish between truth and falsehood, or understand the duty to tell the truth. (*Cindy L.*, *supra*, 17 Cal.4th at p. 32; *Lucero L.*, *supra*, 22 Cal.4th at p. 1246.) Father

contends that Samayoa did not establish the girls' truth competence because she did not ask them whether they understood what it meant to tell the truth, or the difference between a truth and a lie. Samayoa said, and S.C. agreed, that it was "really, really important to talk about the truth." L.C. began describing the December 26 incident before Samayoa told L.C., and L.C. agreed, to tell the truth. Even if Samayoa failed to fully explore the girls' truth competence, that failure did not compel exclusion of their statements. Although a "child's truth competence is a factor in determining the reliability of a hearsay statement, it is not necessarily the decisive factor." (*Cindy L., supra*, 17 Cal.4th at p. 35.)

The girls' statements were properly admitted and furnished substantial evidence to support the jurisdictional finding under section 300, subdivision (d). In view of this conclusion, we need not address Father's challenge to the jurisdictional finding under section 300, subdivision (b).

## II. DISPOSITION

A. Record

The Agency filed a disposition report dated February 19, and addendum reports dated April 21 and June 4, 2014. The Agency recommended that the girls be declared dependents, and continue to reside with Mother under Agency supervision. The Agency recommended family maintenance services for Mother, and no services for Father because he was a non-custodial parent, and "[t]his is an in-home case with a custodial parent." Visitation was addressed in the February 2014 report, which stated that the Agency was "not recommending visitation at this time between the minors and the father," but was "continuing to assess the propriety of visitation in the future."

At the dispositional hearing, Pier Bacigalupa, S.C.'s current therapist, testified that visitation with Father would be detrimental to S.C. and L.C. Bacigalupa had worked since 1983 treating dependent children victimized by sexual abuse, and was an expert on the subject. Bacigalupa had seen S.C. 11 times, and her "strong recommendation" was that she "not have any contact with [Father]." "[C]ontact with him [was] premature clinically" until he admitted molesting her. S.C. was reticent to talk about her abuse, and

that reluctance and related psychological problems would be exacerbated by contact with Father. Bacigalupa had met L.C. only once, but opined against her visitation with Father, stating that L.C. as a witness to sexual abuse was also a victim, and at risk of such abuse in the future. Visitation with L.C. would create risks to S.C. because Father might blame S.C. for breaking up the family, S.C. might think that she had done something wrong because she got no visits, and S.C.'s bond with L.C. could be damaged. Bacigalupa thought that L.C. "should not have to choose between her father and her sister."

Bacigalupa opined that Father needed group therapy in a program certified by the California Sex Offender Management Board, and individual therapy. She said, "If you don't go through experts in this field, you will get an individual therapist who will think they know what they're doing and will make a lot of mistakes."

Rostran-Navarro authored the Agency reports and was the other witness at the dispositional hearing. She testified that the Agency continued to support placement of the girls with Mother as their safest option, despite concerns about Mother's parenting. She said that the Agency would not recommend that Father have visitation with the girls until he admitted molesting S.C. Father had made no such admission, and blamed Mother for the girls' reports of the December 26 incident. Rostran-Navarro said that, in "in home" cases where children are placed with a custodial parent, the Agency usually exercises its discretion to recommend services to the other parent if it appears that reunification with the other parent is possible. In this case, however, it "didn't make sense for us if there's not going to be contact . . . to do services."

Despite the recommended disposition, Rostran-Navarro said that the Agency required her to make reasonable efforts to investigate possible services to Father. She contacted Foster Care Mental Health (FCMH), the section of the Department of Public Health that "manages the mental health component for foster care." FCMH initially advised that it had contracts with only two therapists who provided individual sex offender therapy, and the one who spoke Spanish was no longer taking cases. Rostran-Navarro made a second request, and was advised that FCMH had a Spanish-speaking therapist who was willing to work with Father, but recommended that Father "do[] a

group work program alongside his individual treatment." FCMH referred Rostran-Navarro to the San Francisco Forensic Institute (SFFI), which offered certified sex offender group therapy in Spanish, but SFFI advised that it had no contract with FCMH.

The court declared S.C. and L.C. dependents, and directed that they reside with Mother under Agency supervision, with family maintenance services. The court denied Father visitation, and declined to provide him services.

B. Discussion

(1) *Removal*

Father contends the court erred in failing to expressly find by clear and convincing evidence that there were grounds for removal of the girls from his custody, and that the Agency failed to make reasonable efforts to eliminate the need for their removal. However, after the finding that Father had sexually abused S.C. in L.C.'s presence, there was no question that they were unsafe in his custody at the time of disposition. Father's arguments were for reunification services and visitation with L.C., not for custody.

Section 361, subdivision (c) provides: "A dependent child shall not be taken from the physical custody of his or her parents or guardian or guardians with whom the child resides at the time the petition was initiated, unless the juvenile court finds clear and convincing evidence of any of the following circumstances . . . [¶] . . . [¶] (4) The minor or a sibling of the minor has been sexually abused, or is deemed to be at substantial risk of being sexually abused, by a parent, guardian, or member of his or her household, or other person known to his or her parent, and there are no reasonable means by which the minor can be protected from further sexual abuse or a substantial risk of sexual abuse without removing the minor from his or her parent or guardian, or the minor does not wish to return to his or her parent or guardian." The court recognized at the hearing that clear and convincing evidence of the need for removal was required. A finding of the need for removal from Father's custody was subsumed in the findings that the girls would be harmed even by visits with him.

The Agency obtained therapy for the girls, and sought therapeutic services for Father in the hope that he would eventually admit his wrongdoing and could begin a

reconciliation process. As a practical matter, there was nothing the Agency could have done to eliminate the need for the girls' removal from Father's custody because he was not admitting the sexual abuse that was found to have occurred. There is no cause to overturn the court's finding that the Agency's efforts were reasonable under the circumstances.

(2) *Reunification Services*

The court concluded that it had no authority to require the Agency to provide reunification services to Father. Father contends that he had statutory and constitutional rights to such services. We disagree.

Father says he is entitled to reunification services under section 361.2, subdivision (a), which provides: "When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, *with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300*, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child." (Italics added.) Section 361.2, subdivision (b)(3) provides: "If the court places the child with that parent it may do any of the following: [¶] . . . [¶] (3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case, the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents . . . ."

Father is mistaken in claiming that section 361.2 affords him the right to services because the statute refers to placement with a noncustodial parent (*In re Adrianna P.* (2008) 166 Cal.App.4th 44, 55), and Mother was a custodial parent. When the prior dependency was dismissed in April 2013, the girls were residing with Father. The judgment gave Father sole physical custody, and Mother unsupervised visitation.

However, in October 2013, Mother and Father stipulated that Father would have the girls only at limited, specified times. Consequently, the girls were residing primarily with Mother when the molestation occurred.

Because the girls were to remain with a custodial parent, the applicable statute is section 362, subdivision (c), which provides: "If a child is adjudged a dependent child of the court, on the ground that the child is a person described by Section 300, and the court orders that a parent or guardian shall retain custody of the child subject to the supervision of the social worker, the parents or guardians shall be required to participate in child welfare services or services provided by an appropriate agency designated by the court." "The services referred to in [this statute] are not reunification services but *family maintenance services*." (*In re Pedro Z.* (2010) 190 Cal.App.4th 12, 20 (original italics)). Further, section 16507, subdivision (b) provides that "[f]amily reunification services shall only be provided when a child has been placed in out-of-home care, or is in the care of a previously noncustodial parent under the supervision of the juvenile court." Accordingly, Father had no statutory right to reunification services.

Father contends that he had a constitutional right to reunification services, but he forfeited that argument by failing to raise it before the juvenile court. The argument fails in any event. Father maintains that he has a constitutionally protected liberty interest in receipt of the services. "The Courts of Appeal that have addressed this question have held to the contrary. [Citations.]" (*Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 750.) We will not depart from those decisions. Father submits that the court's "decision to require [him] to pay for his treatment" denied him equal protection because he "was similarly situated with a parent who was required to participate in a therapeutic regime outside the scope of the Agency's contract but had the financial resources to pay for that service." However, the record does not establish that Father sought counseling but was unable to pay for it.

Father argues that the court abused its discretion by denying him reunification services but, as just explained, there was no lawful basis for the exercise of any such discretion. Even if the court had discretion in the matter, no abuse could be shown.

Under section 361.5, subdivision (b)(6), reunification services can be denied in a case such as this where a child has been adjudicated a dependent and he, she, or a sibling has been severely sexually abused by a parent. While this statute did not preclude provision of services, it required Father to prove that it was in the girls' best interests to reunify with him. (*In re A.G.* (2012) 207 Cal.App.4th 276, 281.) The court could reasonably find that he had not met that burden until, at a minimum, he admitted his wrongdoing. (See also *In re J.N.* (2006) 138 Cal.App.4th 450, 459–460 (*J.N.*) [where reunification services are denied under § 361.5, subd. (b), visits can be denied if they are not in the child's best interest].)

(3) *Visitation With L.C.*

Father contends that he was entitled to visitation with L.C. because there was no clear and convincing evidence that she would be harmed by the visits. Bacigalupa testified that it would be detrimental to L.C. as well as S.C. to visit with Father. However, since Bacigalupa was not L.C's therapist, the court found that detriment to L.C. had been proven only by a preponderance, not by clear and convincing, evidence.

The court reviewed *In re Dylan T.* (1998) 65 Cal.App.4th 765 (*Dylan T.*), and *In re Manolito L.* (2001) 90 Cal.App.4th 753 (*Manolito L.*), which applied different standards of proof of detriment that would justify denial of visitation. In *Dylan T.*, the issue was whether an incarcerated parent could be denied visitation at a dispositional hearing. The court held visitation could not be denied absent clear and convincing evidence that visits would be detrimental to the child. (*Dylan T., supra,* 65 Cal.App.4th at pp. 773-774.) In *Manolito L.*, the issue was whether to grant a section 388 petition to discontinue visits after an order terminating parental rights was reversed. The court held that visits could be terminated if a preponderance of the evidence showed they would be detrimental to the minors. (*Manolito L., supra,* 90 Cal.App.4th at pp. 758-764.) The court here found *Manolito L.* the more persuasive authority, and denied visits with L.C. because a preponderance of the evidence indicated that they would be detrimental to her.

"[W]hen reunification services are being provided, it is error to deny visitation with the parent to whom the services apply unless there is sufficient evidence that

visitation would be detrimental to the child. [Citations.] On the other hand, visitation is not integral to the overall plan when the parent is not participating in the reunification efforts." (*J.N.*, *supra*, 138 Cal.App.4th at pp. 458–459.) As the court observed, this is a family maintenance case, and reunification was "not on the table." In these particular circumstances, we agree with the juvenile court that the more lenient preponderance of the evidence standard applied to conclude that visits would cause L.C. harm. Bacigalupa's testimony provided substantial evidence supporting the decision to deny visitation.

## III. DISPOSITION

The jurisdictional and dispositional orders are affirmed.

_____
Siggins, J.

We concur:

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Pollak, Acting P.J.

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Jenkins, J.